UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,802	02/17/2004	Stanislaw Kielbowicz	015258-062800US	1519

20350 7590 08/21/2007

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
DUDNIKOV, VADIM	

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
08/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/780,802	KIELBOWICZ, STANISLAW	
	Examiner	Art Unit	
	Vadim Dudnikov	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 June 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/3/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

A new examiner has assumed responsibility for the examination of the application.

Response to Arguments

1. Applicant's arguments see pages 5-10, filed 06/06/2007, with respect to of previous Office action have been fully considered but they are not in every respect persuasive. Those rejections and objections that have been overcome by amendment are omitted from the present Office action and are considered withdrawn.

Rejections of amended claims are established in light of further consideration of the prior Art. See rejections underneath.

The amendments to claims 1, 8-9 and 11 and adding of new claim 12 are acknowledged. Claims 1 and 3-12 have been examined.

Applicant's arguments (printed *italic*) are considered and answered below.

Applicant presents main argument on page 9:

Here, Applicant respectfully submits that it appears that the Office Action's arguments follow this impermissible approach, in that a certain feature is picked, i.e. the screen pockets, from Kielbowicz while omitting that Kielbowicz as a whole teaches away from the protective screen claimed in the present application since Kielbowicz teaches a cylindrical outer shape of the protective screen and a different structure of the cassette units.

Answer: Said cylindrical surface of the protective screen from prior art comprises of cells "pockets" similar to pockets disclosed by Applicants that are "configurable for

placement in row in order to assemble the screen wall element in the desired size" and desired shapes. It is obvious for person ordinary skilled in the art, that any protective wall can be assembled from groups of said cells ("pockets") composing said "compound cassette units" with a shape convenient for assembling of said screen wall including rectangular cassette units. Said pockets comprised of walls having a structure similar to Applicant's pocket walls.

Applicant's argument fails to convince because the alleged distinction between the cassette structure of the invention and cited prior art does not correspond to any claimed limitation.

Counter to Applicant's insistence on TSM as the acceptable obviousness rejection: The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within his her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense (KSR International Co. v. Teleflex Inc. 550 U.S. -, 82 USPQ 2d 1385 (2007)).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kielbowicz (5,759,398) (hereafter '398), and further in view of Regulatory Guide 1.82 (hereafter GD 1.82, see IDS).

Regarding claim **1**, '398 discloses: a protective screen for screening off a suction space and a suction duct connected to it, in an emergency cooling system of a nuclear power plant (title, abstract, column 1, lines 5+, column 2, lines 1+), said protective screen including: at least one screen wall element having a suction side and an outflow side (11, 12, 13 in FIG2, 3, 4, 5, column 2, lines 24+, column 3, lines 1+), wherein the screen wall element is built up of one or more modular rectangular cassette units (combination of pockets 14 shown in FIGs. 3, 4, 5, column 2, lines 24+) and wherein the cassette units each contain a plurality of screen pockets which are open towards the suction side (14 in Figs. 3, 4, 5, column 2, lines 24+) spaced apart walls and one or more intermediate walls arranged between the spaced apart walls, which intermediate walls are formed as double walls allowing fluid flow inside the double walls (sequences of walls 11, 13 are equal to said intermediate walls and can service as spaced apart wall, because some said wall can be made without perforation), and bent perforated wall segments disposed between the spaced apart walls and the intermediate walls, said bent perforated wall segments spanning the distance between adjacent intermediate walls and the spaced apart wall and an intermediate wall (13 in FIGs. 3, 4, 5, column 2, lines 24+, column 3, lines 1+), in order to form the screen pockets, said screen pockets having lateral sides and being are surrounded by outflow gaps, said outflow gaps being connected to the outflow side or open towards the outflow side (14 in FIGs. 3, 4, 5,

column 3, lines 3+)

and wherein the cassette units are configurable for placement in a row in order to assemble the screen wall element in the desired size (plurality of pockets 14 are configurable into the cassette units of any shape).

In reference to the claim language referring to claim 1, intended use and other types of functional language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.. In re Casey,152 USPQ 235 (CCPA 1967); In re Otto , 136 USPQ 458, 459 (CCPA 1963)

Addition motivation for reconfiguration of the screen disclosed by '398 derives from RG1.82. Included in the Features Needed to Minimize the Potential Loss of NPSH (net positive suction head) are: 1.1.1.6) that sump screens should be capable of withstanding loads imposed by accumulation of debris and 1.1.1.11) that the sump screen design should be chosen to avoid loss of NPSH cause by debris blockage. These are similar to the aims that motivate the design features of the filter element disclosed by '398, and a skilled artisan would be able to utilize those teachings in order to design a sump screen in accordance with the regulatory guide and that reads upon the currently claimed invention. That is, it would have been obvious to one skilled in the art at the time of invention to modify the screen taught by '398 to have a rectangular cassettes, i.e., to reduce the curvature of the sieve pocket structure as pictured in FIG. 4, in order to provide a screen endowed with the advantageous sieve pocket structure in

the conventional sump pit structure on page 11 of RG 1.82. It would require only conventional metalworking skills to accomplish this modification, and doing so

Counter to applicant insistence on TSM as the acceptable obviousness rejection: The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within his her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense (KSR International Co. v. Teleflex Inc. 550 U.S. -, 82 USPQ 2d 1385 (2007)).

On claim **3**, '389 additionally teaches: the screen pockets are each surrounded on their lateral sides by outflow gaps (13 in FIG. 2, 14 in FIGs. 3, 4, 5, column 2, lines 24+, column 3, lines 1+).

On claim **4**, '389 additionally teaches: the bent perforated wall segments are bent in a substantially U-shaped form (13 in FIGs. 3, 4, column 2, lines 24+, column 3, lines 1+).

On claim **5**, '389 additionally teaches: the screen pockets have a depth of greater than 0.1 m. The depth of the sieve pockets disclosed by '389 is not given a specific value, and thus there is no explicit teaching with regard to claim 5. However, '389 states that the favorable ratio between the volume of the sieve and its effective sieve surface is due to the fact that water can flow through outwardly opening sieve pockets, each of which forms a partial sieving volume. In other words, the more convoluted the sieve structure

– i.e., the deeper the pockets – the more accessible area there is for water to escape, the lower the flow rate of the water through any given aperture and the more constant the pressure regardless of debris accumulation (col. 3, lines 29-43). The claimed pocket depths are therefore result-effective variables that may be optimized within prior art conditions or through routine experimentations. See MPEP § 2144.05(II)(A). It would have been obvious to one skilled in the art at the time of invention to develop pockets having depths greater than 0.1 m for the screen taught by '389 in order to prevent undesirable pressure changes, a motivation disclosed by '389 as stated above. Applicant's argument that "the parameters are different" between aforementioned circuits does not convince because parameter adjustment per se is within the capabilities of ordinary skill in the art.

Counter to applicant insistence on TSM as the acceptable obviousness rejection: The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within his her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense (KSR International Co. v. Teleflex Inc. 550 U.S. -, 82 USPQ 2d 1385 (2007)).

On claim **6**, '389 additionally teaches: the spaced apart walls of the cassette units are formed as double walls having outflow gaps (sequences of walls 11, 13 in FIG. 2, column 2 lines 24+)

On claim **7**, '389 additionally teaches: the spaced apart walls and the intermediate walls of the cassette units are clamped against one another by means of connection elements (bolts 10 in FIGs. 1, 2, 3, 4, column 2 lines 24+)

On claim **8**, '389 additionally teaches: any of the spacings between the spaced apart walls and intermediate walls is determined in part by spacer elements disposed between the spaced apart walls and intermediate walls (spacers 21, 22 in FIGs. 2,, 5, column 3, lines 14+).

On claim **9**, '389 additionally teaches: any of the walls or intermediate walls or the perforated and bent wall segments are manufactured from perforated sheet metal (11, 12, 13 in FIGs, 2, 3, 4, 5, column 3, lines 4+).

On claim **10**, '389 additionally teaches: the suction pockets have a depth of greater than 0.2 m.

The depth of the sieve pockets disclosed by '389 is not given a specific value, and thus there is no explicit teaching with regard to claim 10. However, '389 states that the favorable ratio between the volume of the sieve and its effective sieve surface is due to the fact that water can flow through outwardly opening sieve pockets, each of which forms a partial sieving volume. In other words, the more convoluted the sieve structure – i.e., the deeper the pockets – the more accessible area there is for water to escape, the lower the flow rate of the water through any given aperture and the more constant

the pressure regardless of debris accumulation (col. 3, lines 29-43). The claimed pocket depths are therefore result-effective variables that may be optimized within prior art conditions or through routine experimentations. See MPEP § 2144.05(II)(A). It would have been obvious to one skilled in the art at the time of invention to develop pockets having depths greater than 0.2 m for the screen taught by '389 in order to prevent undesirable pressure changes, a motivation disclosed by '389 as stated above. Applicant's argument that "the parameters are different" between aforementioned circuits does not convince because parameter adjustment per se is within the capabilities of ordinary skill in the art.

Counter to applicant insistence on TSM as the acceptable obviousness rejection: The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within his her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense (KSR International Co. v. Teleflex Inc. 550 U.S. -, 82 USPQ 2d 1385 (2007)).

On claim **11**, '389 additionally teaches: any of the spacings between the two sides of a double wall is determined by Spacer elements disposed between the two sides of the double wall (bolts 10 can service as spaces between the two sides of a double as shown in FIGs. 3, 4).

On claim **12**, '389 additionally teaches: any of the spacings between the intermediate walls is determined by spacer elements disposed between the intermediate walls (spacers 21, 22 in FIGs. 2, 5, column 3, lines 17+).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vadim Dudnikov whose telephone number is 571- 270-1325. The examiner can normally be reached on 8:00 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Keith can be reached, Mon-Fri 7:00am-4:00 pm, at telephone number 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

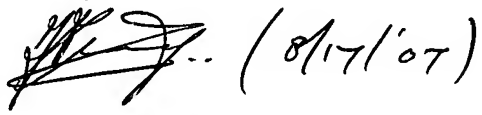
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner.

Vadim Dudnikov

August 15, 2007.

Primary Patent Examiner.



(8/17/07)

Johannes Mondt

(TC 3600, AU 3663)